

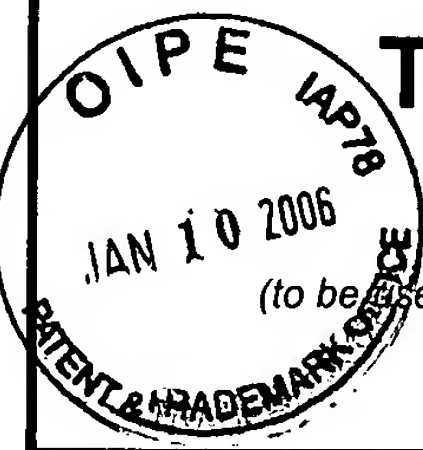
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 <b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing)	Application Number	10/075,082	
	Filing Date	02/13/2002	
	First Named Inventor	Anthony C. Parra	
	Group Art Unit	7564	
	Examiner Name	Christina Marks & Michael O'Neill	
Total Number of Pages in This Submission	115	Attorney Docket Number	M223

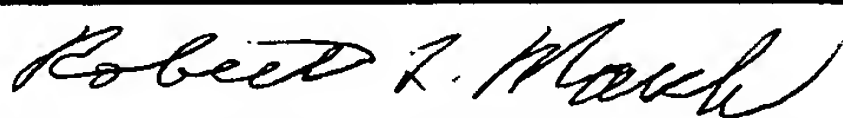
## ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks		
Three (3) copies of the Brief and Appendices are enclosed.		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Robert L. Marsh
Signature	
Date	01/04/2006

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AF

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : Parra, Anthony C.  
Serial No. : 10/075,082  
Filed on : 02/13/2002  
For : Casino Gaming Station  
Group : 7564  
Examiner : Marks, Christina M. and O'Neill, Michael  
Attorney Docket No. : M223

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**SECOND CORRECTED BRIEF ON APPEAL**

Hon. Commissioner of  
Patents and Trademarks  
Alexandria, Virginia 22313

Sir:

If any additional charges or fees must be paid in connection with this communication, they may be paid out of our deposit account No. 50-0783.

This is an appeal from the Final Rejection of the Examiner dated November 26, 2004 finally rejecting claims 1, 2 and 4 through 14, all of the pending claims in this application. Three copies of this brief are submitted. A check in the amount of \$250.00 was enclosed with the original Brief on Appeal filed April 20, 2005.

In compliance with 37 CFR 41.37, the following eight specific items are presented:

(1) REAL PARTY IN INTEREST

The real parties in interest are the appellants, Anthony C. Parra and Debra L. Parra, who are the applicants and the inventors.

(2) RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences known to appellant or appellant's legal representative which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) STATUS OF CLAIMS

Claims 1 through 14 were filed with the original application. Claims 1 and 10 are the only independent claims. Claim 3 was canceled. All remaining claims stand rejected and are the subject of this appeal. The status of the various claims is as follows:

<u>Claim No.</u>	<u>Status</u>	
1	rejected	appealed
2	rejected	appealed
3	canceled	
4	rejected	appealed
5	rejected	appealed
6	rejected	appealed
7	rejected	appealed
8	rejected	appealed

9	rejected	appealed
10	rejected	appealed
11	rejected	appealed
12	rejected	appealed
13	rejected	appealed
14	rejected	appealed

#### (4) STATUS OF AMENDMENTS

An amendment was filed in response to the final rejection dated November 26, 2004. Entry of the amendment was denied. The appeal is taken from the final rejection entered November 26, 2004.

#### (5) SUMMARY OF CLAIMED SUBJECT MATTER

The independent claims of the present application are numbered 1 and 10. Claim 1 is directed to a casino gaming station (Fig. 1) consisting of a table 11 having an upper surface 16 with markings thereon 17 – 22 for use in the playing of a game of chance. The upper surface designates a plurality of play stations 17 – 22 (page 5 lines 6 – 11) each of which is used by one player participating in the game of chance. There is also a dealer's station 24 designated on the upper surface (page 5 lines 11 – 13). Positioned near the table but independent therefrom is a pedestal 50 supporting a vertically extending portion 52 and a horizontally outwardly extending portion 54 (page 6 lines 4 – 9). The vertical portion 52 and the horizontal portion 54 are made as a unitary member is shown in Fig. 1. The wording describing these

parts as being a “unitary member” was added to page 6 line 7 by an amendment filed on August 11, 2004.

The horizontally extending portion 54 has an outer end which supports a canopy 56 (page 6 line 6) over the table 11 (page 6 lines 9 – 14). The canopy 56 includes a video camera 64 (page 6 line 18 to page 7 line 2) with an output to a supervisor who can view the play of the game to detect cheaters.

Claim 10 is directed solely to the pedestal 50 and its components, shown only in Fig. 1. The pedestal 50 includes a base 50, a unitary member 52, 54 having a vertical first portion 52 with an upper end and a horizontal second portion 54 extending from the upper end of the first portion. A canopy 56 is supported at the outer end of the second portion 54. The canopy has an elevation suitable for positioning over the table 11 (see Fig. 1 and page 6 lines 9 – 14). The canopy 56 has a motion video camera 64 to record the play of the game on the table 11 and is directed toward the upper surface of the table to provide a video of the game of change (page 6 line 18 to page 7 line 2).

Claim 2 is dependent on claim 1 but it is rejected on an additional reference and the applicant argues that claim 2 is independently patentable. Claim 2 recites the gaming station of claim 1 and further adds a headset for use by the dealer connected to a supervisor at a remote location. The headset bears indicia number 78 and the supervisor bears indicia number 81 and both are shown in Fig. 11. The figure of the supervisor was added to Fig. 1 by amendment filed August 11, 2004. The use of the microphone and headset are discussed on page 7 lines 17 to 19 of the specification.

Claim 7 is also dependent on claim 1 and adds a video display on the pedestal for projecting the play of the game. Claim 7 is rejected under an additional reference other than those cited against claim 1 and the applicant argues that it is separately patentable. The video display bears indicia number 26, is shown in Fig. 1, and is discussed on page 5 lines 5 to 8 of the specification.

Claim 12 is dependent on claim 10 and includes the video display discussed with respect to claim 7. Claims 7 and 12 were rejected on the same grounds and add substantially identical material to the claim upon which they are dependent.

Claims 4, 6, 8, and 9 are all dependent on claim 1 and effectively stand or fall with claim 1. Even so, these claims are rejected under various combinations of the references and the applicant has argued the allowableness of all these claims over the combinations of references. Claim 4 adds means for projecting advertising material. The means referred to is an "LED display" on the outer surface 60 of the canopy 56 as disclosed on page 6 lines 15 to 18 of the specification. Claim 6 adds the video display 77 viewed by the supervisor, shown in Fig. 1 and discussed on page 7 lines 9 to 16. Fig. 8 adds a tray, indicia number 72, shown in Fig. 1 and discussed on page 7 lines 3 to 5. Claim 9 adds a retainer, bearing indicia number 74, and also discussed on page 7 lines 3 to 5.

Claims 11, 13, and 14 are all dependent on claim 10 and stand or fall with claim 10. Even so, these claims are rejected under references cited in addition to those cited to reject claim 10 and the applicant has argued their allowableness. These claims recite subject matter that is identical to the subject matter in claims 6, 8, and 9 respectively.

(6) GROUND OF REJECTION TO BE REVIEWED ON APPEAL

I. Whether claims 1 and 10 are unpatentable under 35 USC 103(a) over Walsh (US Patent no. 5,726,706) in view of Wilton (US Patent no. 3,643,345).

II. Whether claim 2 is unpatentable under 35 USC 103(a) over Walsh in view of Wilton and in further view of Wynn et al (US Patent no. 5,971,271).

III. Whether claims 4, 7, and 12 are unpatentable under 35 USC 103(a) over Walsh in view of Wilton and in further view of Sines et al (US Patent no. 6,270,404).

IV. Whether claim 5 is unpatentable under 35 USC 103(a) over Walsh in view of Wilton in further view of Parra US patent 5,839,960).

V. Whether claims 6 and 11 are unpatentable under 35 USC 103(a) over Walsh in view of Wilton in further view of Jones II (US patent 6,154,131).

VI. Whether claims 8, 9, 13, 14 are unpatentable under 35 USC 103(a) over Walsh in view of Wilton in further view of Breeding et al (US Patent no. 6,299,534).

(7) ARGUMENT

I. Rejection under 35 USC 103(a) over Walsh in view of Wilton.

(a) Claim 1

Claim 1 stands rejected under 35 USC 103(a) as being unpatentable over Walsh and Wilton. The Walsh references is cited as disclosing a canopy having a camera mounted therein for viewing the surface of a table positioned below the canopy. The Wilton reference is cited as teaching a pedestal having a base and "a unitary member extending vertically from the base until an upper end (5)..., a horizontal member (4), the second portion" (page 3 lines 13 – 14 of final action), and

a canopy containing a camera. The examiner further asserts that "it would be obvious...that the crane could become integral and still serve the function required by the casino, thus making it entirely fixable would be obvious to a skilled artisan who would be motivated by the environment and requirements for usage in a casino" (page 4 lines 1 – 8 of final action).

In an earlier Office Action, the examiner had cited Chapman US Patent no. 6,450,706 B1, which disclosed a mobile crane having a complicated articulating arm for holding a cameraman and a camera at the upper end thereof for use in the movie industry. Regarding that reference, the examiner asserted that the underlying vehicle was a base and that the device included a member extending vertically from the base and a horizontal member extending from the upper end of the vertical member to support a canopy. In the amendment filed August 13, 2004, a copy of which is included in applicant's Evidence Appendix, the applicant amended the claims to recite that the pedestal includes a base and "a unitary member" attached thereto "having a first portion" extending vertically from the base and a horizontal "second portion" attached to the upper end of the first portion with a canopy at the outer end of the horizontal second portion. In the Remarks following the August 13, 2004 amendment, the applicant stated that the words "unitary member," which is described as having vertical and horizontal portions, had been inserted to distinguish the multi-hinged articulating arm disclosed by the Chapman reference. In the final rejection issued November 26, 2004, the examiner has withdrawn the Chapman reference and substituted the Wilton reference. The Wilton reference is superior to the previously cited Chapman reference because the crane of Wilton is not mounted on a mobile



vehicle (as was Chapman) and the camera is permanently aimed downwardly and not adjustable by the crane operator.

The applicant strongly denies that the arm of the Wilton device is unitary, or that it is obvious to make the arm of Wilton as a rigid unitary member including a vertical and horizontal portion as the examiner asserts. In this regard, the applicant states that from a careful reading of claim 1 it is clear that the "horizontal second portion" extends from the upper end of the "vertically extending first portion" where the first and second portions makeup a single "unitary member." Wilton discloses a vertical base portion (5), which, taken by itself, is unitary, and then pivotally attached thereto is an elongate longitudinally extendable arm (4) made up of arm segments 7, 7', 8, 8', 9 and 10. The various segments 7, 7', 8, 8', 9, 10 are hingedly connected to one another to radially move the distal end of the arm and the camera (2) attached thereto to thereby move the camera across the upper surface of a large planar map (1). It should be appreciated that the amendment entered August 13, 2004 added the element of a "unitary member" which is described as having first and second portions thereto for the sole purpose of distinguishing the articulating arm of the previously cited Chapman reference from the structures claimed.

The examiner believes that it is obvious from the Walsh reference that a pedestal can be constructed having a base with a unitary member attached thereto having a vertically extending portion and a horizontal portion for retaining a camera assembly and the like from the distal end of the horizontal portion. The examiner has failed, however, to provide a reference that shows a rigid arm mounted at the upper end of a vertical member with the parts forming a unitary member. It should also be

appreciated that to modify the Wilton crane as the examiner would have done, would render the device of Wilton inoperable for the purpose for which it is intended. Specifically, if the device of Wilton includes a vertical post and extending arm made as a unitary member, it could not be used to simulate the view of the ground below as seen from an aircraft moving across the surface of the earth. This is because the distal end of the boom would either be rigidly fixed in a single location, or the arm would pivot in an arc and, in either case, would not simulate the movement of an aircraft flying over land as the device is intended to provide. Under In re Gordon 221 USPQ 1125 at 1127 it cannot be obvious to modify a device in a manner that renders it unsuited for its intended purpose and therefore, it is not obvious to provide the crane of Wilton with a rigid unitary mast and boom as the examiner would have done. Accordingly, the crane of Wilton cannot be combined with the canopy of Walsh to reach the elements of claim 1.

The applicant also cites the Declaration of one of the inventors, Anthony C. Parra, dated February 17, 2004 and filed along with an amendment on February 18, 2004. In his Declaration, Mr. Parra states that cameras have been used to monitor the play on casino tables since circa 1970, but that in all the time since then, a camera mounted on a freestanding structure as claimed has not been used to photograph the play on a casino table. The applicant asserts that this is strong evidence that the structure set forth in claim 1 is not obvious. Claim 1 is therefore patentable over the combination of Walsh and Wilton.

(b) Claim 10

Claim 10 is directed to a pedestal that supports a canopy having a camera therein to be used to view the play surface of a casino gaming table. The same combination of references used to reject claim 1 has been used to reject claim 10.

The “unitary member” as described in claim 10 is a little different than as described in claim 1. In claim 10 the “horizontal second portion” is specifically defined as being part of the “unitary member” whereas claim 1 relies upon language structure to provide this relationship. Otherwise, the elements of the pedestal as defined by claim 10 are identical to those of claim 1 and the same arguments that distinguish the structure of claim 1 from the reference cited also distinguish the structure of claim 10. In summary, claim 10 recites a “unitary member” extending from the base to the canopy, whereas the crane arm of Wilton is not unitary. Claim 10 is therefore patentable over Walsh and Wilton.

II. Claim 2 is patentable under USC 103(a) over Walsh in view of Wilton and in further view of Wynn.

Claim 2 is dependent upon claim 1 and adds “a headset for use by the dealer connected to a supervisor at a remote location to facilitate communication between said supervisor and said dealer.” This claim stands rejected under 35 USC 103(a) over Walsh, Wilton, in further view of Wynn. The forgoing discussion of the Walsh and Wilton references submitted with respect to claim 1 are also applicable to claim 2.

The Wynn reference discloses a gaming device including an audio and a video channel operating between a player at the gaming device and a central location manned by one or more concierges who can communicate with the player, answer questions, make reservations, and in general attend to the requests of the player, see the abstract. Wynn provides for a “handset” rather than a “headset” as required by claim 2. The device of Wynn is no more than a telephone to be used by a player to contact casino personnel. Wynn does not disclose a device for providing oral communication between a dealer and a remote supervisor as required by claim 2. Clearly, Wynn fails to appreciate the benefits of the present invention and therefore the elements recited in claim 2 are not obvious in view of Wynn. It is believed, therefore, that claim 2 is independently patentable over the elements of claim 1.

III. Claims 4, 7 and 12 are patentable under 35 USC 103(a) over Walsh in view of Wilton and in further view of Sines.

(a) Claims 7 and 12

The Sines reference has been cited in combination with the Walsh and Wilton references to reject claims 4, 7, and 12. Claim 7 is dependent upon claim 1 and recites a video display mounted on the pedestal for projecting the play of the game of the table as recorded by the camera in the canopy. Claim 12 is dependent upon claim 10 and also recites a video display on the pedestal for projecting the play of the game as shown through the camera in the canopy.

It is believed that claims 7 and 12 are independently patentable over the references cited. Sines discloses a gaming system in which the play of a game, such

as blackjack or the like, is depicted on a video display and the functions such as shuffling, cutting, and dealing of cards are accomplished using a data processing function. Sines suggests that the monitors that are used in the game can also display material advertising the game or other games in the casino to attract customers when the displays are not being used for depicting the game. The displays of Sines, however, cannot be used to project a view of the game as seen from the camera in the canopy overhead while the game is in fact in play because the videos of the Sines device are a fundamental element of the game itself. The system and apparatus disclosed by Sines clearly cannot serve the function for which it is intended and simultaneously display the view of the gaming table as seen from the overhead camera as would be required by claims 7 and 12. Accordingly, claims 7 and 12 are independently patentable over the references of record.

(b) Claim 4

Claim 4 is dependent on claim 1 and adds means for projecting advertising material visible to patrons. Claim 4 stands or falls with claim 1.

IV. Claim 5 is patentable under 35 USC 103(a) over Walsh and Wilton in further view of Parra.

The Parra reference discloses a telephone in a gaming table and added nothing to the combination of Walsh and Wilton with respect to claims 1 or 10. Claim 5 therefore stands or falls with claim 1. Claim 5, therefore, is not independently patentable over claim 1.

V. Claims 6 and 11 are patentable under 35 USC 103(a) over Walsh, Wilton and Jones II.

Again, the applicant does not contend that claims 6 and 11 are independently patentable over the claims upon which they are dependent. Even so, Jones, II fails to provide any teaching which would overcome the deficiencies of the combination of Walsh and Wilton, and therefore, claim 6 stands or falls with claim 1 and claim 11 stands or falls with claim 10.

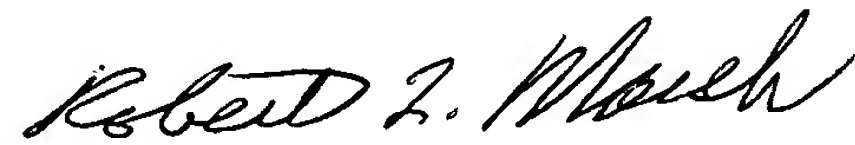
VI. Claims 8, 9, 13, and 14 are patentable under 35 USC 103(a) over Walsh in view of Wilton in further view of Breeding.

Claims 8, 9, 13, and 14 were rejected under 35 USC 103(a) as being unpatentable over Walsh, Wilton, and Breeding. Claims 8 and 9 are dependent upon claim 1 and claims 13 and 14 are dependent upon claim 10 and all four claims relate to a tray on the pedestal for retaining extra chips and the like used by the dealer. The Breeding reference has been cited as disclosing a “caddy” that provides the dealer with supplemental functions and can be used as a storage table. Breeding, however, does not disclose a separate free standing pedestal, but rather an extension 34 to the table itself. Claims 8, 9, 13, and 14 therefore separately define over the references cited.

In light of the forgoing remarks, it is respectfully submitted that the examiner's rejection of claims 1, 2 and 4 through 14 was incorrect and should be reversed.

Accordingly, it is urged that the examiner be reversed.

Respectfully submitted,

A handwritten signature in cursive script that reads "Robert L. Marsh".

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Attorney for the Applicant  
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(8) Appendices

Appendix A – Claims

1. A casino gaming station comprising in combination  
a table having an upper surface,  
said upper surface having markings thereon for use in the playing of a game of chance,  
a plurality of play stations designated on said upper surface with each of said play stations for use by one player participating in said game of chance,  
a dealer station designated on said upper surface,  
a pedestal independent of said table,  
said pedestal positioned near said table,  
said pedestal including a base and a unitary member attached thereto, said unitary member having a first portion extending vertically from said base,  
said vertically extending first portion having an upper end,  
a horizontal second portion attached to said upper end of said first portion and extending therefrom,  
said horizontal second portion having an outer end,  
a canopy at said outer end of said horizontal second portion,  
said canopy positioned over said table,  
a motion video camera positioned in said canopy to record the playing of a game on said table,  
said motion video camera directed towards said upper surface of said table to provide a video of the play of said game of chance on said upper surface.



2. A casino gaming station in accordance with Claim 1 and further comprising a headset for use by the dealer connected to a supervisor at a remote location to facilitate communication between said supervisor and said dealer.

4. A casino play station in accordance with claim 1 wherein said canopy includes means for projecting advertising material visible to the patrons near said table.

5. A casino play station in accordance with claim 1 wherein said table is further provided with a socket for attachment to a telephone for use by patrons.

6. A casino game in accordance with claim 1 and further comprising a video display connected to said motion video camera positioned in a remote location for viewing by a supervisor.

7. A casino play station in accordance with claim 1 and further comprising a video display on said pedestal for projecting the play of the game on said table as recorded by said motion video camera, said display oriented so as to be visible by the patrons playing at said table.

8. A casino play station in accordance with claim 1 and further including a tray on said pedestal.

9. A casino play station in accordance with claim 8 wherein said tray is fitted with a retainer for retaining extra chips for use by the dealer.

10. A pedestal for use with a casino gaming table having a plurality of play stations thereon for use by players of the game of the table, said pedestal comprising

- a base,
- a unitary member extending vertically from said base,
- said unitary member having a vertical first portion with an upper end,
- a horizontal second portion of said unitary member extending from said upper end of said vertical first portion,
- said horizontal second portion having an outer end,
- a canopy at said outer end of said horizontal second portion,
- said canopy having an elevation suitable for positioning over said table,
- a motion video camera positioned in said canopy to record the playing of a game on said table,
- said motion video camera directed towards said upper surface of said table to provide a video of the play of said game of chance on said upper surface.

11. A pedestal in accordance with claim 10 and further comprising a video display connected to said motion video camera positioned in a remote location for viewing by a supervisor.

12. A pedestal in accordance with claim 10 and further comprising a video display on said pedestal for projecting the play of the game on said table as recorded by said motion video camera, said display oriented so as to be visible by the patrons playing at said table.

13. A pedestal in accordance with claim 10 and further including a tray on said pedestal.

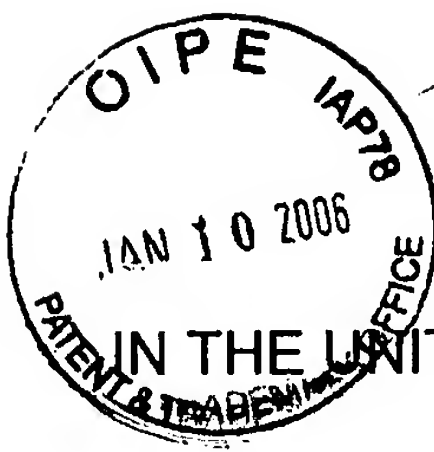
14. A pedestal in accordance with claim 13 wherein said tray is fitted with a retainer for retaining extra chips for use by the dealer.

## Appendix B – Related Appeals and Interferences

There are no appeals or interferences related to this application or to this appeal.

### Appendix C – Evidence

1. The applicant attaches a copy of his Amendment filed August 13, 2004 to which applicant refers to and relies upon in his argument with respect to claims 1 and 10.
2. The applicant attaches a copy of In re Gordon 221 USPO 1125 relied upon in applicant's argument with respect to claims 1 and 10.
3. Declaration of Anthony C. Parra dated February 17, 2004.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : Anthony C. Parra  
Serial No. : 10/075,082  
Filed on : 2/13/02  
For : CASINO GAMING STATION  
Examiner : Christina M. Marks  
Group : 3713  
Attorney Docket No. : M223

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**AMENDMENT**

Hon. Commissioner of  
Patents and Trademarks  
Washington, D.C. 20231

Sir:

If any additional charges or fees must be paid in connection with this  
communication, they may be paid out of our deposit account no. 50-0783.

In the Drawings:

Please amend the drawings as shown in red on the attached page. After the examiner has approved the amendment to the drawings, the applicant will provide a replacement formal drawing of Fig. 1.

In the Specification:

Please amend the second paragraph of page 6 of the specification as follows:

Positioned near the table 11 is a pedestal 50 supporting an upwardly extending vertical post 52, the upper end of which supports a horizontally outwardly extending portion 54 at the end of which is a canopy 56. ~~Although t~~  
The pedestal 50 is depicted in Fig. 1 as a unitary member having an arcuate configuration extending from the post 52 to the horizontal extension 54, however, the post 52 and extension 54 may have any of a number of configurations within the spirit of the invention. The pedestal 50 is provided with a base 55 having sufficient weight and has sufficient width 58 to adequately support the canopy 56 over the center of the upper surface 16 of the table 11 while the pedestal 50 is positioned sufficient far from the base 12 of the table 11 so as to not interfere with the activities of the patrons or the dealer who are engaged in the play of the game. The canopy 56 has an outer surface 60 which is provided with an LED display, or any other means, for projecting advertising material which can be seen by patrons passing the casino game station 10.



In the claims:

1. (currently amended) A casino gaming station comprising in combination

a table having an upper surface,

said upper surface having markings thereon for use in the playing of a game of chance,

a plurality of play stations designated on said upper surface with each of said play stations for use by one player participating in said game of chance,

a dealer station designated on said upper surface,

a pedestal independent of said table,

said pedestal positioned near said table,

~~said pedestal including a base and a member extending vertically from said base,~~

said pedestal including a base and a unitary member ~~fixedly~~ attached thereto, said unitary a member having a first portion extending vertically from said base,

said vertically extending first portion ~~member~~ having an upper end,

a horizontal second portion ~~member~~ attached to said upper end of said first portion and ~~fixedly~~ extending therefrom,

said horizontal second portion ~~member~~ having an outer end,

a canopy at said outer end of said horizontal second portion ~~member~~,

said canopy positioned over said table,

a motion video camera positioned in said canopy to record the playing of a game on said table,

said motion video camera directed towards said upper surface of said table to provide a video of the play of said game of chance on said upper surface.

2. (original) A casino gaming station in accordance with Claim 1 and further comprising

a headset for use by the dealer connected to a supervisor at a remote location to facilitate communication between said supervisor and said dealer.

3. (canceled)

4. (original) A casino play station in accordance with claim 1 wherein said canopy includes means for projecting advertising material visible to the patrons near said table.

5. (original) A casino play station in accordance with claim 1 wherein said table is further provided with a socket for attachment to a telephone for use by patrons.

6. (original) A casino game in accordance with claim 1 and further comprising a video display connected to said motion video camera positioned in a remote location for viewing by a supervisor.

7. (original) A casino play station in accordance with claim 1 and further comprising a video display on said pedestal for projecting the play of the game on said table as recorded by said motion video camera, said display oriented so as to be visible by the patrons playing at said table.

8. (original) A casino play station in accordance with claim 1 and further including a tray on said pedestal.

9. (original) A casino play station in accordance with claim 8 wherein said tray is fitted with a retainer for retaining extra chips for use by the dealer.

10. (currently amended) A pedestal for use with a casino gaming table having a plurality of play stations thereon for use by players of the game of the table, said pedestal comprising

a base,

a unitary member ~~fixedly~~ extending vertically from said base,

said unitary ~~vertically extending~~ member having a vertical first portion with  
an upper end,

a horizontal second portion of said unitary member ~~fixedly~~ extending from  
said upper end of said vertical first portion ~~vertically extending member~~,

said horizontal second portion ~~member~~ having an outer end,

a canopy at said outer end of said horizontal second portion ~~extension~~,

said canopy having an elevation suitable for positioning over said table,

a motion video camera positioned in said canopy to record the playing of a  
game on said table,

said motion video camera directed towards said upper surface of said  
table to provide a video of the play of said game of chance on said upper  
surface.

11. (original) A pedestal in accordance with claim 10 and further  
comprising a video display connected to said motion video camera positioned in  
a remote location for viewing by a supervisor.

12. (original) A pedestal in accordance with claim 10 and further comprising a video display on said pedestal for projecting the play of the game on said table as recorded by said motion video camera, said display oriented so as to be visible by the patrons playing at said table.

13. (original) A pedestal in accordance with claim 10 and further including a tray on said pedestal.

14. (original) A pedestal in accordance with claim 13 wherein said tray is fitted with a retainer for retaining extra chips for use by the dealer.

### **Remarks**

The forgoing amendment has been made after a careful review of the present application, the references of record, and the Office Action May 28, 2004.

In the Office Action, the examiner rejected the claims under 35 USC 112 as failing to disclose in the specification that the parts are "fixedly," related to one another as set forth in the applicant's preceding amendment. Claims 1 and 10 were rejected under 35 USC 103 (a) as being unpatentable over Walsh in view of Chapman, and the remaining claims of the application were rejected under 35 USC 103 (a) as being unpatentable over Walsh in view of Chapman and in further view of one or more other references. Claim 2 was rejected as being unpatentable under the combination of Walsh, Chapman, and Wynn; claims 4, 7, and 12 unpatentable over the combination of Walsh, Chapman, and Sines; and claim 5 rejected under the combination of Walsh, Chapman, and Parra. Claims 6 and 11 were rejected under the combination of Walsh, Chapman, and Jones; and claims 8, 9, 13, and 14 under the combination of Walsh, Chapman, and Breeding.

In the forgoing amendment, the applicant has deleted the word "fixedly" from the claims to overcome the examiner's rejection under 35 USC 112. The amended claims do, however, refer to the vertical post 52 and the horizontal outwardly extending portion 54 as being portions of "a unitary member." With respect to any potential objection on behalf of the examiner under 35 USC 112, the applicant draws the examiner's attention to Fig. 1 in which the elongate

member which extends upwardly of the base 55 and includes the vertical post 52 and the horizontally extending portion 54 is made as a unitary member. To clarify the claims in this regard, paragraph 2 of page 6 of the specification has been amended to add the words "unitary member," to the description of the vertical post 52 and extension 54. Since these elements are clearly shown as a unitary member in Fig. 1, the addition of these words to the specification does not constitute new matter. The drawings were also amended to add indicia number "55" to Fig. 1.

As previously stated, claims 1 and 10 were amended to recite that the pedestal includes a base and a unitary member extending from the base, the unitary member having a vertically extending first portion and outwardly extending from the upper end of the first portion, a horizontally extending second portion. The applicant submits that the claims as amended are clearly supported by the specification and drawings as originally filed and are therefore not subject to renewal of the examiner's rejection under 35 USC 112.

The applicant hereby traverses the rejection of claims 1 and 10 under 35 USC 103 (a) as being unpatentable over Walsh and Chapman. Chapman was cited as disclosing a crane with a moveable arm which the examiner has cited as being equivalent to the vertical post 52 and the horizontal extension 54. The amended claims 1 and 10, however, set forth that the post and extension are portions of a unitary member which support a canopy 56 having a camera mounted therein over the gaming table 11. As explained on page 8 lines 5 through 16, if the gaming table 11 is exchanged for a table having a different

configuration, “a pedestal and canopy 56 suitable for use with the table of the second game can be substituted for that used in the first game.” The camera crane of Chapman, on the other hand, has an upwardly extending boom 44 with a plurality of hinges along its length, such that the boom 44 is clearly not a “unitary member” as required by amended claims 1 and 10. The applicant asserts that if the crane of Chapman were to be modified to provide a unitary boom, the crane as modified would be unsuited for the purposes for which it is intended, as recited in the specification of Chapman. Under in re Gordon 221 USBQ 1125 at 1127, it can't be obvious to modify a device in a manner that renders it unsuited for its intended purpose and therefore, it is not obvious to provide the crane of Chapman with a unitary boom. The applicant also renews his arguments that the crane of Chapman does not constitute “a pedestal, as required by claims 1 and 10 and all those dependent upon them. In this regard, the applicant asserts that parking a mobile crane does not create “a pedestal” within the meaning of the word as defined in dictionaries including *Webster's New Collegiate Dictionary*, for which the page containing the definition of “pedestal” is attached. Accordingly, Chapman cannot be combined with Walsh to reach the elements of amended claims 1 and 10. Accordingly, the rejection of amended claims 1 and 10 has now been overcome and must be withdrawn.

In similar fashion, the applicant traverses the rejection of the remaining claims, all of which are dependent upon either claim 1 or 10. Specifically, the applicant traverses the rejection of claim 2 as being unpatentable over the combination of Walsh, Chapman, and Wynn. Wynn discloses an audio



communication device, including a headset, but fails to disclose the elements deficient in Chapman with respect to claim 1 upon which claim 2 is dependent, and therefore the rejection of claim 2 should be withdrawn. Claims 4, 7, and 12 were rejected as unpatentable over the combination of Walsh, Chapman, and Sines. Sines had been cited by the examiner as disclosing a monitor, but like Wynn, Sines does not disclose the unitary vertically extending arm that is not shown in Chapman and is required by claims 1 and 10. Therefore, these claims define over the references cited.

Claim 5 was rejected under the combination of Walsh, Chapman, and Parra, Parra being cited as disclosing a telephone incorporated into a gaming table. Claims 6 and 11 were rejected under the combination of Walsh, Chapman, and Jones, with Jones being cited as disclosing a sensor and an alarm system needed for surveillance. Claims 8, 9, 13, and 14 were rejected under the combination of Walsh, Chapman, and Breeding with Breeding being cited as disclosing a caddy that provides the dealer with supplemental functions. None of the supplemental references, namely, Parra, Jones, and Breeding, disclose a support structure for a surveillance canopy having a unitary member extending from a base as required by the two independent claims. Therefore, all of the forgoing claims define over the references of record and are allowable.

In view of the forgoing, the applicant submits that the present application is now in condition for allowance, and favorable reconsideration and allowance is requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert L. Marsh", with a stylized flourish extending from the end.

Robert L. Marsh  
Attorney for the Applicant  
Registration No. 25894  
630-681-7500  
630-681-3464 (fax)

RLM:ksc



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**DECLARATION**

I, Anthony C. Parra, declare as follows:

That I am one of the inventors of the Casino Gaming Station, filed in the U.S. Patent and Trademark Office on February 13, 2002 and assigned serial no. 10/075,082.

That I have been employed in the gaming and casino industry on a continuous basis (except for the years 1985 to 1988) from 1977 until 2001 during which time I served as a casino table dealer, a casino supervisor, slot operations manager, and casino shift manager having supervisory authority over all casino operations.

That I am familiar with the surveillance techniques employed in the casino industry including several of the types of cameras and the mountings for such cameras used in the casino industry.

That it is my belief that the mounting of a camera on a pedestal having a fixed upwardly extending member and a fixed arm that extends over a gaming table as claimed in my above mentioned patent application has not been used in a casino prior to my invention.

That cameras have been used to provide surveillance in the casino industry since circa 1970 or before.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application of any patent issued thereon.

  
\_\_\_\_\_  
Anthony C. Parra

  
\_\_\_\_\_  
Date



that issued the order here appealed from. Nor does substitution of BSI on appeal affect the sole issue before us, i.e., whether the Virginia district court erred in holding that it had no jurisdiction under §1338(a) over the action as filed. Nor would we have jurisdiction over an appeal from a final decision of a district court in a case in which that court's jurisdiction was based solely on diversity of citizenship.

As above indicated, we do have jurisdiction to decide our own jurisdiction and that of the district court on which our own depends. The appealed order was based on lack of jurisdiction over this type of suit under §1338(a). BSI questions the correctness of that order. Our decision disposes of that question and the appeal is not therefore moot.

#### (4) Costs

Rasmussen requests costs, attorney fees, and damages under Rule 38, Fed. R. App. P., asserting that this appeal is frivolous on its merits and in its procedural foundation and that it was filed for the sole purpose of unnecessarily and needlessly prolonging the ongoing conflict between the parties.

This court has noted that the filing of and proceeding with a clearly frivolous appeal constitutes an unnecessary and unjustifiable burden on overcrowded courts, diminishes the opportunity for careful contemplative consideration of non-frivolous appeals, and delays access to the courts of persons having truly deserving causes. *Asberry v. United States Postal Service*, 692 F.2d 1378, 215 USPQ 921 (Fed. Cir. 1982); *Connell v. Sears Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983). *Asberry* was called to counsel's attention when this appeal was filed.

There are, however, differences between excessive advocacy and inexperience on the one hand and clear frivolity on the other. True, it is difficult to conceive of any useful or non-frivolous purpose that could have reasonably motivated the continuation of this appeal, an appeal that does border the ragged edge of frivolity. First, BSI has a suit pending in Delaware, where it says diversity jurisdiction exists, and where a judgment on the merits may be obtained from which an appeal will lie to the United States Court of Appeals for the Third Circuit.<sup>5</sup> Second, the result of a reversal here, if there had been a remote

chance of achieving it, would have been merely the pendency of BSI's two identical suits in two different federal district courts. Third, BSI continued to prosecute the appeal after the bankruptcy of its arguments had been pointed out in Rasmussen's brief.

Though a total absence of merit in BSI's arguments may, as Rasmussen suggests, be viewed as evidence of frivolousness, it may in this case also be viewed as the product of other factors, as indicated above. That consideration argues against Rasmussen's demand for all sanctions possible under Rule 38. Another sanction-limiting factor is an opportunity provided for guidance to the parties. BSI may now, for example, deem advisable the removal of §1338(a) as a claimed basis for jurisdiction in the district court for Delaware, and may also recognize that the sole basis for jurisdiction over this contract suit in any federal district court is diversity of citizenship.

We decline therefore to grant Rasmussen's request for a total sanction, including attorney fees and damages. We do order that BSI shall reimburse Rasmussen for his costs on this appeal.

#### Decision

Because no jurisdiction of the district court was here based on §1338(a), the appeal must be dismissed for lack of jurisdiction in this court.

Costs to Rasmussen.

#### Dismissed

Friedman, Circuit Judge, concurs in the result.

#### Court of Appeals, Federal Circuit

In re Gordon et al.

No. 83-1281

Decided May 10, 1984

#### PATENTS

##### 1. Patentability — Anticipation — Modifying references (§51.217)

Question is not whether patentable distinction is created by viewing prior art apparatus

<sup>5</sup> If trial of this action in either district court proceeds to conclusion, the court will decide the case in accordance with the law of contracts, which may be that of the appropriate state, see *In Re Snap-On Tools*, 720 F.2d 654, 220 USPQ 8 (Fed. Cir. 1983), or, perhaps, that of France.

from one direction and claimed apparatus from another, but whether it would have been obvious from fair reading of prior art reference as whole to turn prior art apparatus upside down; mere fact that prior art could be modified by turning apparatus upside down does not make modification obvious unless prior art suggested desirability of modification.

#### Particular patents — Blood Filters

Gordon and Sutherland, Blood Filter Assembly, Rejection of claims 1-3 and 5-7 reversed.

Application for patent of Lucas S. Gordon and Karl M. Sutherland, Serial No. 124,312, filed Feb. 25, 1980. From decision rejecting claims 1-3 and 5-7, applicants appeal. Reversed.

James W. Geriak, Los Angeles, Calif. (Bradford J. Duft, Los Angeles, Calif., on the brief) for appellants.

John F. Pitrelli (Joseph F. Nakamura and John W. Dewhurst, on the brief) for Patent and Trademark Office.

Before Bennett and Miller, Circuit Judges and Skelton, Senior Circuit Judge.

Miller, Circuit Judge.

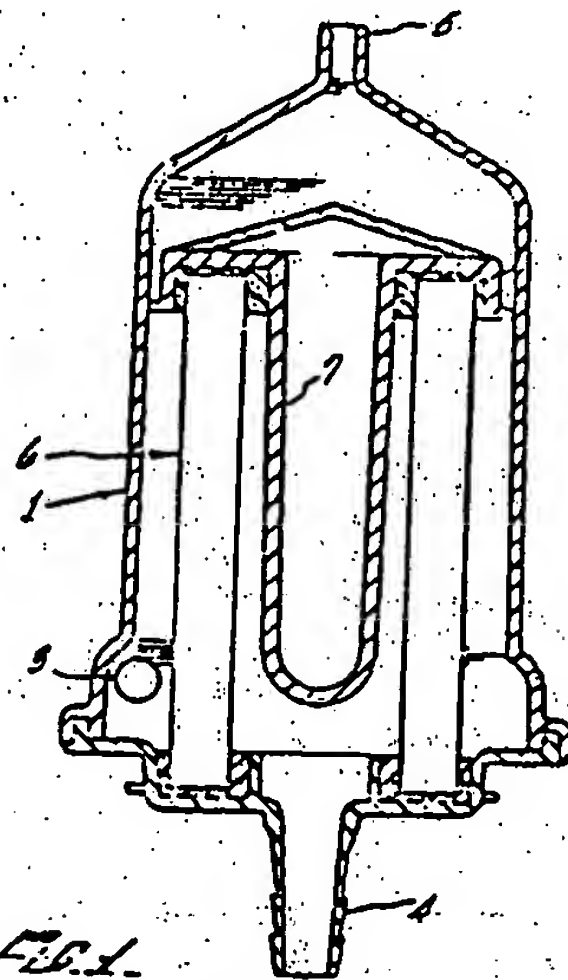
This appeal is from the decision of the United States Patent and Trademark Office ("PTO") Board of Appeals ("board") affirming the examiner's rejection of appellants' claims 1-3 and 5-7 as unpatentable under 35 U.S.C. §103. We reverse.

#### The Invention

Appellants claim a "blood filter assembly" used during surgery and other medical procedures involving the handling of blood to remove clots, bone debris, tissue, or other foreign materials from blood before it is returned to a patient's body. Unlike blood filter assemblies widely used in the prior art, the device of the present invention permits both entry of the blood into, and ultimate discharge of the blood out of, the *bottom* end of the filter assembly, as shown below.<sup>2</sup>

<sup>1</sup> In application Serial No. 124,312, filed February 25, 1980, for a "Blood Filter."

<sup>2</sup> Extraneous numbers have been removed from this and the subsequent drawing for clarification.



The blood filter assembly comprises a shell 1 provided with blood inlet 3 and blood outlet 4. Between the blood inlet and the blood outlet is filter medium 6 positioned within the filter medium core 7.

The location of blood inlet 3 is such that the incoming blood is directed along a spirally upward path by the inner wall of the shell. Further, the location of the blood inlet at the bottom end of the filter assembly facilitates the removal of gas bubbles by allowing them to rise upwardly out of the blood. The gas bubbles so removed are released from the blood filter assembly by means of a gas vent 5 located in the region of the top end of the assembly.

Independent claim 1, from which the other appealed claims depend, is illustrative:

Blood filter assembly comprising:

- a. a shell having a first top end and a second bottom end,
- b. a blood inlet located in the region of said bottom end and opening into said bottom end,
- c. a blood outlet located in the region of said bottom end,
- d. a gas vent located in the region of said top end, and
- e. a blood filter medium located between said blood inlet and said blood outlet, said blood inlet being located and configured in a manner capable of directing incoming blood in a generally spiral path within said shell.

Claims 2, 3, and 5-7 further define the shape of the shell, the shape of the filter medium, and the nature of the material used as the filter medium.

The so is United March 21 a liquid s from gasc below, the device are

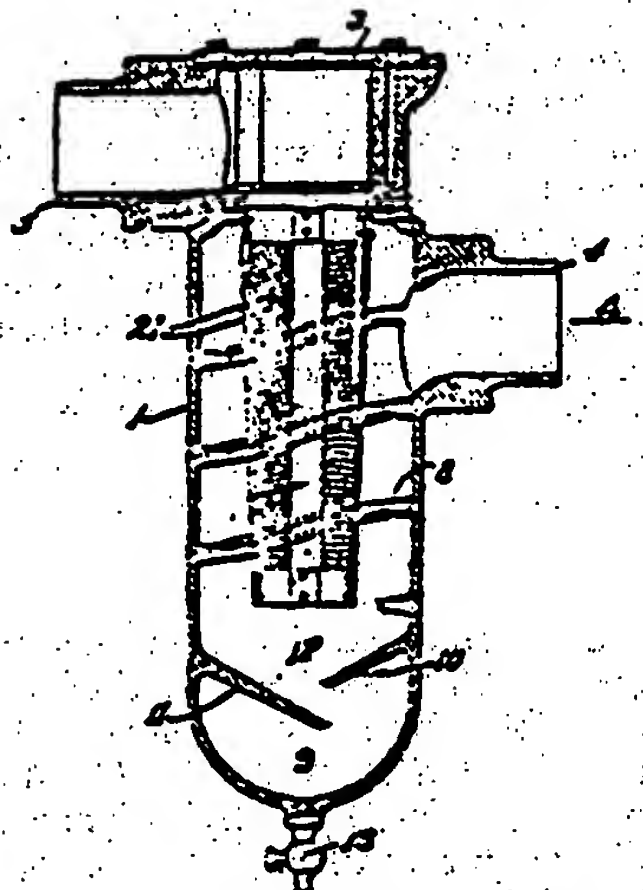
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### Prior Art

The sole reference relied upon by the board is United States Patent No. 1,175,948, issued March 21, 1916, to French. French discloses a liquid strainer for removing dirt and water from gasoline and other light oils. As shown below, the inlet 4 and outlet 5 of the French device are both at the top end of the device.



A continuous helical tooth or thread 8 is formed integral with the inner wall of shell 1 and imparts to the incoming liquid a whirling motion, which gives the liquid a scouring action to help clean the surface of a metal screen filter 21 and guides unwanted dirt and water downwardly into a pocket 9 in the bottom of the shell. A pair of shelves 10 and 11, projecting inwardly and downwardly from the inner wall of the shell, further assists the entrance of dirt and water into the pocket 9 and prevents their being drawn back into the main chamber 12. The reference expressly states, "gravity assists in the separation of heavier oils or water." A pet-cock 13, projecting vertically downward from the bottom of the pocket is used to remove the collected dirt and water periodically. The top of the liquid strainer is completely closed by gland 3 except for the inlet and outlet openings.

### Board Opinion

The board held that the appealed claims were drawn to an apparatus which "would have at least been rendered prima facie obvious to one of ordinary skill in the art by the apparatus disclosed in French." The board's reasoning was that it would have been obvious to turn the French device upside down to have both the inlet and outlet at the bottom,

rather than at the top; and to employ French's "pet-cock" as the claimed "gas vent." In the board's opinion, no patentable distinction was created by viewing French's apparatus from one direction and the claimed apparatus from another.

### ANALYSIS

[1] We are persuaded that the board erred in its conclusion of prima facie obviousness. The question is not whether a patentable distinction is created by viewing a prior art apparatus from one direction and a claimed apparatus from another, but, rather, whether it would have been obvious from a fair reading of the prior art reference as a whole to turn the prior art apparatus upside down. French teaches a liquid strainer which relies, at least in part, upon the assistance of gravity to separate undesired dirt and water from gasoline and other light oils. Therefore, it is not seen that French would have provided any motivation to one of ordinary skill in the art to employ the French apparatus in an upside down orientation. The mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification. See *Carl Schenck, A.G. v. Nortron Corp.*, 713 F.2d 782, 787, 218 USPQ 698, 702 (Fed. Cir. 1983), and *In re Sernaker*, 702 F.2d 989, 995-96, 217 USPQ 1, 6-7 (Fed. Cir. 1983), both citing *In re Imperato*, 486 F.2d 585, 587, 179 USPQ 730, 732 (CCPA 1973).

Indeed, if the French apparatus were turned upside down, it would be rendered inoperable for its intended purpose. The gasoline to be filtered would be trapped in pocket 9, and the water French seeks to separate would flow freely out of the outlet 5. Further, unwanted dirt would build up in the space between the wall of shell 1 and screen 21, so that, in time, screen 21 would become clogged unless a drain valve, such as pet-cock 13, were re-introduced at the new "bottom" of the apparatus. See *In re Schulpen*, 390 F.2d 1009, 1013, 157 USPQ 52, 55 (CCPA 1968). In effect, French teaches away from the board's proposed modification.

Because the PTO has failed to establish a prima facie case of obviousness, the rejection of claims 1-3 and 5-7 as unpatentable under 35 U.S.C. §103 must be reversed.<sup>3</sup>

Reversed

<sup>3</sup> Because our holding that the PTO has failed to establish a prima facie case is dispositive, it is unnecessary to reach other arguments raised by appellants.

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